

REMARKS

Please consider the following remarks:

The Status of the Claims

In applicants' Preliminary Amendment filed November 17, 2003, claims 1-26 were canceled without prejudice, claim 27 was amended, claim 28 was retained as originally filed, and claims 29-39 were added. Claims 27-39 were canceled, and claims 40-41 were added in the Amendment filed January 17, 2007. Claims 40-41 were amended May 16, 2008, and claim 42 was added December 29, 2008. Claims 40-42 were canceled in January 2009, and claim 43 was added.

Claim 43 is now canceled, and claim 44 is added. The addition of claim 44 is supported by the specification at, for example, page 8, lines 20-22, page 12, line 1, through page 14, line 7, page 15, line 6, through page 16, line 1, page 16, line 33, through page 17, line 19, page 18, lines 5-34, page 19, line 25, through page 20, line 16, Examples 8-12, and the claims as originally filed.

Accordingly, no new matter has been added as a result of these amendments.

The Definiteness of the Claims

Claim 43 stands rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite for purportedly failing to set forth all salient characteristics required to perform the assay in any meaningful manner. In particular, the Office objects to claim 43 for failing to recite washing steps to remove unbound reagents.

The Office also directs Applicants' attention to Weber et al. (2002) and Sickinger et al. (2004) as purportedly providing detailed assay methods for combination antigen-antibody assays. According to the Office, claim 43 fails to set forth suitable assay steps as compared to the descriptions of the Weber et al. assay (solid phase receptacle with upper phase coated with HIV-specific antibodies for antigen capture) and the Sickinger et al. assay (microparticles coated with either antigen or antibody).

This rejection is believed to be moot in view of the cancellation of claim 43. Applicants respectfully submit that newly presented claim 44 recites sufficient process steps, including washing steps to remove unbound reagents. In view of that, Applicants

believe that claim 44 is definite and should not be subject to the same rejection as claim 43.

CONCLUSION

The application is considered to be in good and proper form for allowance. Applicants believe they have addressed all rejections in the Office communication. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,
Lou, et al.

ABBOTT LABORATORIES
Customer No.: 23492
Telephone: (847) 938-3440
Facsimile: (847) 938-7827

/Audrey L. Bartnicki, Reg. No. 40,499/
Audrey L. Bartnicki
Registration No. 40,499
Attorney for Applicants

Carol Larcher, Reg. No. 35,243
Larcher & Chao Law Group
9239 Gross Point Rd, Ste 202A
Skokie, IL 60077